

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JULIE DERMANSKY,
Plaintiff,

- against -

ROLLING STONE LLC
Defendant.

Docket No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Julie Dermansky (“Dermansky” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Rolling Stone LLC, (“Stone” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Trump supporters at a Trump rally owned and registered by Dermansky, a Louisiana based photojournalist. Accordingly, Dermansky seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Dermansky is a professional photojournalist in the business of licensing her photographs to online, print, and television stations for a fee, having a usual place of business at 1309 Civic Street, Metairie, Louisiana 70001. Dermansky's work has won numerous awards and grants including the NEA Fast Track Grant, The Thomas J. Watson Fellowship, The Arthur Q. Davis Drawing Competition Award, and the Juanita Gonzales Award in Ceramics.

6. Upon information and belief, Stone is a foreign limited liability corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 1290 Sixth Avenue, 2nd fl., New York, New York 10104. Upon information and belief, Stone is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Stone has owned and operated a website at the URL: www.Rollingstone.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Dermansky photographed fans of Presidential elect Donald Trump at a rally in Alabama (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Dermansky then uploaded the Photograph to her website and placed a watermark on the Photograph.

9. Dermansky is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the US Copyright Office and was given Copyright Registration Number VA 000-200-0285.

B. Defendant's Infringing Activities

11. Upon information and belief, on or about November 8, 2016, Stone ran an article on the Website entitled *Republican Presidential Candidate Donald Trump's Rally in Mobile Alabama*. See http://rollingstone.com.mx/rs_mes/el-virus-trump/attachment/republican-presidential-candidate-donald-trumps-rally-in-mobile-alabama/. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

12. Stone did not license the Photograph from Plaintiff for its article, nor did Stone have Plaintiff's permission or consent to publish the Photograph on its Website.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST STONE)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Stone infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Stone is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Stone have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Stone be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
December 5, 2016

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Julie Dermansky